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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,885	11/26/2003	Sang Kyun Paek	CU-3457	1678

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EXAMINER

STASHICK, ANTHONY D

ART UNIT PAPER NUMBER

3728

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/722,885	Applicant(s) PAEK, SANG KYUN	
	Examiner Anthony Stashick	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Edelstein 2,909,854.

Edelstein '854 discloses all the limitations of the claims including the following: a sole 1 of a shoe having a recessed portion 2 in an area of the sole that corresponds to the location of a pair of sesamoid bones protruding undersurface of a foot wearing the shoe for receiving the sesamoid bones in the recessed portion to provide comfort to the person wearing the shoe (see col. 1, line 63-col. 2, line 14); the sole is an attached part of the shoe (see col. 2, lines 20-31); the depth of the recessed portion is about 2 mm (see Figure 1); the sole is separable from the shoe (sole placed within the shoe, therefore separable as well, even if it means breaking the bond of the adhesive); the depth of the recessed portion is about 2 mm (see Figure 2); a sole 1 of a shoe having an aperture 2 formed in an area of the sole that corresponds to the location of a pair of sesamoid bones protruding undersurface of a foot wearing the shoe for receiving the sesamoid bones in the aperture to provide comfort to the person wearing the shoe (see location in Figure 1); the sole is an attached part of the shoe (see col. 2, lines 20-31); the sole is separable from the shoe (sole placed within the shoe, therefore separable as well, even if it means breaking the bond of the adhesive).

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Meyer 4,756,096.

Meyer '096 discloses all the limitations of the claims including the following: a sole 30 of a shoe having a recessed portion (36 in Figures 4 and 6) in an area of the sole that corresponds to the location of a pair of sesamoid bones protruding undersurface of a foot wearing the shoe for receiving the sesamoid

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bones in the recessed portion to provide comfort to the person wearing the shoe (see Figure 6); the sole is an attached part of the shoe (sole placed within shoe); the depth of the recessed portion is about 2 mm (see Figure 6); the sole is separable from the shoe (insole placed within shoe).

4. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Fahey 4,689,898.

Fahey '898 discloses all the limitations of the claims including the following: a sole 58 of a shoe having a recessed portion (behind 57 in Figure 4) in an area of the sole that corresponds to the location of a pair of sesamoid bones protruding undersurface of a foot wearing the shoe for receiving the sesamoid bones in the recessed portion to provide comfort to the person wearing the shoe; the sole is an attached part of the shoe (see Figure 4); the depth of the recessed portion is about 2 mm (see Figure 4); the sole is separable from the shoe (noted as insole).

5. Claims 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Dananberg 4,608,988.

Dananberg '988 discloses all the limitations of the claims including the following: a sole 10 of a shoe having an aperture (located at 14B in Figure 5A and claimed in claim 5. Also see col. 7, lines 19-39) formed in an area of the sole that corresponds to the location of a pair of sesamoid bones protruding undersurface of a foot wearing the shoe for receiving the sesamoid bones in the aperture to provide comfort to the person wearing the shoe; the sole is an attached part of the shoe (see Figure 8); the sole is separable from the shoe (midsole, see col. 1, lines 45-49).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and cited on form 892 enclosed herewith.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Stashick whose telephone number is 571-272-4561. The examiner can normally be reached on Monday through Thursday from 8:30 am until 4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Anthony Stashick
Primary Examiner
Art Unit 3728

ADS